

67-5-1. General duties.

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of his duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action

or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report.

Amended by Chapter 101, 2013 General Session

Amended by Chapter 237, 2013 General Session

67-5-1.5. Special duties -- Employment of staff.

- (1) The attorney general may undertake special duties and projects as follows:
- (a) employment of child protection services investigators under Section 67-5-16;
 - (b) employment of an Obscenity and Pornography Complaints Ombudsman under Section 67-5-18;
 - (c) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;
 - (d) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;
 - (e) administration of the Identity Theft Reporting Information System (IRIS) Program under Section 67-5-22;
 - (f) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24;
 - (g) administration of the Safety Net Initiative as provided under Section 67-5-26; and
 - (h) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.
- (2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Amended by Chapter 350, 2012 General Session

67-5-3. Performance of legal services for agencies -- Billing -- "Agency" defined.

The attorney general may assign his legal assistants to perform legal services for any agency of state government. He shall bill that agency for the legal services performed, if (1) the agency so billed receives federal funds to pay for the legal services rendered, or if (2) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered; however, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered. As used in this act "agency" means any department, division, agency, commission, board, council, committee, authority, institution, or other entity within the state government of Utah.

Amended by Chapter 76, 1982 General Session

67-5-4. Interaccount billings included in budget -- Payment of staff members.

The attorney general shall include in his annual budget all interaccount billings and pay directly out of his funds all members of his staff, whether housed in his offices or not.

Enacted by Chapter 186, 1973 General Session

67-5-5. Hiring of legal counsel for agencies -- Costs.

Except where specifically authorized by the Utah Constitution, or statutes, no agency shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal counsel for each such agency. Where the Legislature has provided by statute for separate agency counsel, no such counsel may act as an assistant attorney general nor as a special assistant attorney general unless the attorney general shall so authorize. Unless he hires such legal counsel from outside his office, the attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired for an agency, then the costs of any services to be rendered by this counsel shall be approved by the attorney general before these costs are incurred. The attorney general shall approve all billing statements from outside counsel and shall pay the full costs of this counsel unless the agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or proceeds reserved or designated for the payment of legal fees receives from any other source the equivalent cost or a portion thereof, in which case the attorney general may bill the agency for the services; provided, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal service rendered.

Amended by Chapter 76, 1982 General Session

67-5-6. Attorney General Career Service Act -- Citation.

This act shall be known and may be cited as the "Attorney General Career Service Act."

Enacted by Chapter 185, 1973 General Session

67-5-7. Establishment of career service system.

(1) The purpose of this chapter is to establish a career service system for employees of the Office of the Attorney General that will attract and retain employees of proven ability and experience who will devote their full time to the service of the state.

(2) The Office of the Attorney General may adopt policies necessary to implement this chapter, including personnel and work policies different from those made by the Department of Human Resource Management.

Amended by Chapter 166, 2007 General Session

67-5-8. Eligibility for career service status.

(1) (a) The attorney general has sole authority to determine who may be employed with the Office of the Attorney General.

(b) An employee of the state or any of its departments or agencies has no claim or right to a position in the attorney general's office by virtue of that employment.

(2) (a) An employee of the Office of the Attorney General shall be placed in a career service status if:

(i) for an employee who is an attorney, the attorney is a member in good standing of the Utah State Bar Association; and

(ii) except as provided in Subsection (3), the employee has been employed by

the Office of the Attorney General as a probationary employee for a period of:

(A) at least one year but no more than 18 months; or

(B) in the case of investigators, at least 18 months, but no more than two years.

(b) An employee now employed by the attorney general's office in career service may not be terminated under this chapter except for cause.

(3) (a) The attorney general shall determine whether an employee should be granted career service status.

(b) If, at the end of the probationary period established under Subsection (2), the attorney general determines that an employee should be granted career service status, the attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.

(c) If the attorney general determines that career service status should not be granted, the attorney general may either terminate the employee or extend the probationary period for a period not to exceed one year.

(d) The attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.

(e) An employee terminated under this section has no appeal rights under this chapter.

Amended by Chapter 101, 2012 General Session

67-5-9. Reassignment of career status employees -- Additional compensation for managerial assignments -- Employment of special assistant attorneys general -- Termination of employees -- Salary increases.

This chapter does not affect the authority of the attorney general to:

(1) assign and reassign employees in a career status to different positions on his staff. The salary of an employee reassigned to a different position shall not be decreased by reason of reassignment; except that if the employee reassigned occupies the position of chief deputy attorney general, the salary may be reduced by not more than 15% upon the assignment to a different position;

(2) develop a plan for additional compensation for career status employees who accept managerial assignments within the office. The provisions of Subsection (1) notwithstanding, the attorney general may discontinue any additional compensation if the employee no longer holds a managerial assignment. Additional compensation provided under this section shall be determined by the attorney general pursuant to the plan developed by the Office of the Attorney General. If the employee no longer holds a managerial assignment, and the attorney general decides to discontinue any additional compensation, the reduction may not place the employee at a salary below where the employee would be through normal salary increases if the employee had not been in a managerial position;

(3) employ special assistant attorneys general, who shall not be subject to this chapter, to represent the state in particular lawsuits or to handle particular legal matters for the state;

(4) terminate the employment of any employee of the Office of the Attorney General who is not in a career service status; or

(5) establish the salary or determine salary increases of any employee under

this chapter.

Amended by Chapter 166, 2007 General Session

67-5-10. Career status attorneys as full-time employees -- Completion of outside law practice.

(1) Attorneys in a career status shall be full-time employees and shall not engage in the private practice of law and shall not receive any fee for legal services rendered to any person, corporation, partnership, or other legal entity other than the state or the county in which the person holds office or by whom the person is employed. The practice of law prohibited by this subsection does not include pro bono service.

(2) Attorneys on probationary status who have not been granted career service status may, in the discretion of the attorney general, be granted permission to complete or handle legal matters previously begun before employment with the attorney general's office, but may not begin new matters once employed. Once career service status is conferred, the attorney is bound by the provisions of Subsection (1).

(3) The provisions of this section shall not apply to special assistant attorneys general retained on a fee basis to render services in connection with a single case or a related series of cases.

Amended by Chapter 199, 1994 General Session

67-5-11. Employee accepting appointment to state position exempt from merit provisions -- Reinstatement in career status.

(1) An employee in a career status accepting appointment to a position in state government which is exempt from the merit provisions of Title 67, Chapter 19, Utah State Personnel Management Act, shall notify the attorney general in writing. Upon termination of the appointment, unless discharged for cause, the employee, through written request of reinstatement made to the attorney general within 30 days from the effective date of termination from the appointment, shall be reinstated in a career status in the attorney general's office at a salary not less than that which he was receiving at the time of his appointment, and the time spent in the other position shall be credited toward seniority in the career service. Reinstatement shall be made no later than 60 days after the written notification required by this Subsection (1) or 60 days after the effective date of termination from the employee's appointive position, whichever is later. The position and assignment to which the employee shall return shall be determined by the attorney general.

(2) (a) The Office of the Attorney General shall establish and maintain a separate seniority list for each employee category, which categories may include attorneys, investigators, paralegals, secretaries, and others.

(b) An employee of the Office of the Attorney General with less seniority than an employee in the same category entitled to be reinstated under this section holds his position subject to any reinstatement provided by Subsection (1).

Amended by Chapter 166, 2007 General Session

67-5-12. Dismissal of career status employees -- Causes -- Procedure -- Retention roster -- Reappointment register.

- (1) (a) Employees in a career status may be dismissed only:
 - (i) to advance the good of public service;
 - (ii) where funds have expired or work no longer exists; or
 - (iii) for any of the following causes or reasons:
 - (A) noncompliance with provisions in the Office of Attorney General policy manual, or division policies, and, for attorneys, noncompliance with the Rules of Professional Conduct;
 - (B) work performance that is inefficient or incompetent;
 - (C) failure to maintain skills and adequate performance levels;
 - (D) insubordination or disloyalty to the orders of a superior;
 - (E) misfeasance, malfeasance, or nonfeasance;
 - (F) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal obligations;
 - (G) conduct on or off duty which creates a conflict of interest with the employee's public responsibilities or impact that employee's ability to perform his or her job assignments;
 - (H) any incident involving intimidation, physical harm, threats of physical harm against coworkers, management, or the public;
 - (I) failure to meet the requirements of the position;
 - (J) dishonesty; or
 - (K) misconduct.
- (b) Employees in career status may not be dismissed for reasons of race, national origin, religion, or political affiliation.
- (2) Except in aggravated cases of misconduct, an employee in a career status may not be suspended, demoted, or dismissed without the following procedures:
 - (a) The attorney general or a designated representative shall notify the employee of the reasons for suspension, demotion, or dismissal.
 - (b) The employee shall have an opportunity to reply and have the reply considered by the attorney general or a designated representative.
 - (c) The employee shall have an opportunity to be heard by the attorney general or a designated representative.
 - (d) Following a hearing, an employee may be suspended, demoted, or dismissed if the attorney general or a designated representative finds adequate reason.
 - (e) If the attorney general or a designated representative finds that retention of an employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be summarily suspended pending administrative hearings and a review by the Career Service Review Office.
- (3) (a) An employee in a career status who is aggrieved by a decision of the attorney general or a designated representative to suspend, demote, or dismiss the employee may appeal the decision to the Career Service Review Office or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance Procedures.
- (b) Matters other than dismissal or demotion may be appealed to and reviewed by the attorney general or a designated representative whose decision is final with no

right of appeal to the Career Service Review Office or its hearing officers.

(4) Disciplinary actions shall be supported by credible evidence, but the normal rules of evidence in courts of law do not apply in hearings before the attorney general or a designated representative or the Career Service Review Office or its hearing officers.

(5) (a) Reductions in force required by reinstatement of an employee under Section 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a retention roster to be maintained by the Office of the Attorney General and the requirements of this Subsection (5).

(b) Except attorney general executive or administrative appointees, employees not in a career status shall be separated before any employee in a career status.

(c) Retention points for each employee in a career status shall be based on the employee's seniority in service within each employee category in the Office of the Attorney General, including any military service fulfilled subsequent to the employee's original appointment.

(d) Employees in career status shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

(e) Those employees who are serving in other positions under Section 67-5-11 shall:

- (i) have retention points determined as if they were working for the office; and
- (ii) be separated in the order of the retention points as if they were working in the Office of the Attorney General.

(f) An employee in a career status who is separated by reason of a reduction in force shall be:

- (i) placed on a reappointment register kept by the Office of the Attorney General for one year; and
- (ii) offered reappointment to a position in the same category in the Office of the Attorney General before any employee not having a career status is appointed.

Amended by Chapter 369, 2012 General Session

67-5-13. Limitations on political activities by career status employees.

(1) An employee in a career status may not, while in a pay status, be a state or federal officer in any partisan political party organization or in any statewide partisan political campaign. The employee, however, may be an officer or delegate in a partisan political party organization at a county or inferior level or a delegate at a state or national level.

(2) An employee in career status may not be a candidate for any partisan political office, but upon application to the attorney general the employee shall be granted a leave of absence without pay but without loss of existing seniority to participate in a partisan political campaign either as an officer or as a candidate. Time spent during the political leave shall not be counted for seniority purposes as being in service. For the purposes of this section, an employee is not considered to be a candidate until the primary elections have been held.

(3) An employee in career status may not engage in political activity during the hours of employment, nor may any person solicit political contributions from any employee in career status during hours of employment or through state facilities or in

any manner impose assessments on them for political purposes; but nothing in this section shall preclude voluntary contributions to a candidate or a political party.

(4) Partisan political activity shall not be a basis for employment, promotion, demotion, or dismissal. Any violation of this section may lead to disciplinary action against the employee, which may consist of reprimand, suspension, demotion, or termination as determined by the attorney general.

(5) This section shall not be construed to permit partisan political activity by any employee in career status who is prevented or restricted from engaging in this political activity by the provisions of any federal act or the rules and regulations promulgated under it.

Amended by Chapter 166, 2007 General Session

67-5-15. Records of the attorney general.

(1) A record provided to the Office of the Attorney General by a client governmental entity shall be considered a record of the client governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, if the client governmental entity retains a copy of the record.

(2) Notwithstanding Subsection 63G-2-201(5), records may be exchanged between the Office of the Attorney General and a client governmental entity, without meeting the requirements of Section 63G-2-206 provided that they are used only for the purpose of representing the client governmental entity.

Amended by Chapter 382, 2008 General Session

67-5-16. Child protective services investigators within attorney general's office -- Authority -- Training.

(1) The attorney general may employ, with the consent of the Division of Child and Family Services within the Department of Human Services, and in accordance with Section 62A-4a-202.6, child protective services investigators to investigate alleged instances of abuse or neglect of a child that occur while a child is in the custody of the Division of Child and Family Services. Those investigators may also investigate reports of abuse or neglect of a child by an employee of the Department of Human Services, or involving a person or entity licensed to provide substitute care for children in the custody of the Division of Child and Family Services.

(2) Attorneys who represent the Division of Child and Family Services under Section 67-5-17, and child protective services investigators employed by the attorney general under Subsection (1), shall be trained on and implement into practice the following items, in order of preference and priority:

(a) the priority of maintaining a child safely in the child's home, whenever possible;

(b) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(c) the preference for kinship adoption over nonkinship adoption, if the

parent-child relationship is legally terminated;

(d) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(e) the use of an individualized permanency goal, only as a last resort.

Amended by Chapter 171, 2013 General Session

67-5-17. Attorney-client relationship.

(1) When representing the governor, lieutenant governor, auditor, or treasurer, or when representing an agency under the supervision of any of those officers, the attorney general shall:

(a) keep the officer or the officer's designee reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

(b) explain a matter to the extent reasonably necessary to enable the officer or the officer's designee to make informed decisions regarding the representation;

(c) abide by the officer's or designee's decisions concerning the objectives of the representation and consult with the officer or designee as to the means by which they are to be pursued; and

(d) jointly by agreement, establish protocols with the officer to facilitate communications and working relationships with the officer or agencies under the officer's supervision.

(2) Nothing in Subsection (1) modifies or supercedes any independent legal authority granted specifically by statute to the attorney general.

(3) When the attorney general institutes or maintains a civil enforcement action on behalf of the state of Utah that is not covered under Subsection (1), the attorney general shall:

(a) fully advise the governor, as the officer in whom the executive authority of the state is vested, before instituting the action, entering into a settlement or consent decree, or taking an appeal; and

(b) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

(4) In a civil action not covered under Subsection (1) or (3), the attorney general shall:

(a) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information;

(b) explain the matter to the extent reasonably necessary to enable the governor to make informed decisions regarding the representation; and

(c) abide by the governor's decisions concerning the objectives of the representation and consult with the governor as to the means by which they are to be pursued.

(5) The governor may appear in any civil legal action involving the state and appoint legal counsel to advise or appear on behalf of the governor. The court shall allow the governor's appearance.

Enacted by Chapter 212, 2000 General Session

67-5-18. Obscenity and Pornography Complaints Ombudsman -- Powers.

(1) As used in this section, "pornography" means material or a performance that meets the requirements of Subsection 76-10-1203(1).

(2) (a) There is created an Obscenity and Pornography Complaints Ombudsman in the Office of the Attorney General.

(b) The attorney general shall hire an attorney licensed to practice law in Utah who has knowledge of obscenity and pornography law and, if possible, who has a background or expertise in investigating and prosecuting obscenity and pornography law violations to fill the position.

(c) The person hired to fill the position is an exempt employee.

(d) The attorney general may hire clerks, interns, or other personnel to assist the pornography complaints ombudsman.

(3) The Obscenity and Pornography Complaints Ombudsman shall:

(a) develop and maintain expertise in and understanding of laws designed to control or eliminate obscenity and pornography and the legal standards governing the regulation or elimination of obscenity and pornography;

(b) advise citizens and local governments about remedies to address instances of obscenity and pornography in their communities;

(c) advise local governments about ways to strengthen local laws and ordinances addressing obscenity and pornography;

(d) advise local governments about strategies to restrict, suppress, or eliminate obscenity and pornography in their communities;

(e) at the request of the attorney general or a local government, assist a local government in investigating and prosecuting state and local laws and ordinances addressing obscenity or pornography;

(f) before beginning an investigation:

(i) contact the county, district, or city attorney within whose jurisdiction an investigation by the Obscenity and Pornography Complaints Ombudsman will take place and inform that county, district, or city attorney of the investigation; and

(ii) coordinate efforts and share records, in accordance with Section 63G-2-206, with the county, district, or city's attorney referred to in Subsection (3)(f)(i) throughout the investigation;

(g) advise citizens about their options to address specific complaints about obscenity or pornography in their communities;

(h) when requested by a citizen or local government official, arbitrate between citizens and businesses to resolve complaints about obscenity or pornography;

(i) provide information to private citizens, civic groups, government entities, and other interested parties about the dangers of obscenity and pornography, the current laws to restrict, suppress, or eliminate pornography, and their rights and responsibilities under those laws;

(j) draft model ordinances that contain:

(i) various degrees of regulation of sexually-oriented businesses; and

(ii) options for local communities that can be used to regulate pornography and obscenity;

(k) assist political subdivisions in:

(i) drafting model rules, regulations, and policies; and

- (ii) providing recommendations for enforcing those rules, regulations, and policies;
- (l) in conjunction with Utah's county and municipal prosecuting attorneys:
 - (i) review Utah's and Idaho's moral nuisance law;
 - (ii) draft a comprehensive moral nuisance law for Utah and a model ordinance for municipalities and counties to provide an effective mechanism to abate and discourage obscenity and pornography; and
 - (iii) present the draft to the Legislature's Judiciary Interim Committee before October 25, 2001; and
- (m) establish a program to combat Internet pornography and to assist parents in protecting their children from Internet pornography.

Amended by Chapter 382, 2008 General Session

67-5-20. Internet crimes against children -- Education programs.

(1) (a) The attorney general may assist in efforts to prevent and prosecute Internet crimes against children, including working with other agencies of state and local government.

(b) Under Subsection (1)(a), the attorney general may administer the Internet Crimes Against Children Task Force, which is a statewide multidisciplinary and multijurisdictional task force that investigates, prevents, and prosecutes sexual exploitation offenses against children by offenders who use the Internet, online communications systems, or other computer technology.

(2) (a) As part of the attorney general's participation in this task force, the attorney general shall make available, to the extent legislative funding is available, statewide training and informational materials regarding Internet safety for children that focuses on prevention, reporting, and assistance regarding Internet crimes against children.

(b) The training and information shall include programs and information specifically designed for:

(i) children, which shall include classroom presentations and informative leaflets or other printed material; and

(ii) parents, guardians, educators, school resource officers, parent-teacher organizations, and libraries, which shall include Internet safety, technological protection measures, and effective supervision and review of children's use of the Internet, including locating and assessing sites children have had contact with.

(c) As possible, the attorney general shall direct that the task force work with state and local agencies that provide information and programs to prevent and prosecute Internet crimes against children to ensure the most effective use of resources.

Enacted by Chapter 277, 2005 General Session

67-5-21. Internet Crimes Against Children (ICAC) unit creation -- Duties -- Employment of staff.

(1) There is created within the Office of the Attorney General the Internet Crimes

Against Children (ICAC) unit to investigate and prosecute cases involving child pornography and cases involving enticing minors over the Internet into illegal sexual acts.

(2) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (1).

Enacted by Chapter 350, 2006 General Session

67-5-22. Identity theft reporting information system -- Internet website and database -- Access -- Maintenance and rulemaking -- Criminal provisions.

(1) There is created within the Office of the Attorney General the Identity Theft Reporting Information System (IRIS) Program to establish a database and Internet website to:

- (a) allow persons in the state to submit reports of identity theft;
- (b) assist the Office of the Attorney General in notifying state and local law enforcement agencies of reports of identity theft;
- (c) provide assistance and resources to victims of identity theft;
- (d) provide a centralized location where information related to incidents of identity theft may be securely stored and accessed for the benefit of victims of identity theft; and

(e) provide public education and information relating to identity theft.

(2) (a) The Internet website shall be maintained by the Office of the Attorney General and shall be made available to the public and to victims of identity-related crimes.

(b) The Internet website shall:

(i) allow a victim of an identity-related crime to report the crime on the website and have the victim's report routed to the appropriate law enforcement agency for the jurisdiction in which the crime occurred; and

(ii) provide public education and information relating to identity theft.

(c) The Internet website may be expanded to provide other identity-related services to victims according to the procedures of Subsection (4).

(3) (a) The Department of Technology Services shall administer and maintain the database established under this section in an electronic file or other format as established by the department.

(b) (i) The database shall be maintained for the purpose of identifying victims of identity theft who have filed a report with the program established under this section, and may contain the personally identifiable information for each victim, which may include the following information related to an incident of identity theft:

- (A) the victim's name, address, email addresses, and telephone numbers;
- (B) the victim's Social Security number and other identifying information;
- (C) the victim's financial institution information, account numbers, and transaction information;
- (D) the victim's benefit information;
- (E) the victim's credit account information;
- (F) the victim's loan information;
- (G) the victim's employment information;

- (H) the victim's Internal Revenue Service or tax information;
- (I) the victim's utility service information;
- (J) information concerning legal matters or collections related to the incident;
- (K) information concerning unauthorized or illegal transactions, denied credit, stolen identification, and all other unauthorized actions related to the identity theft; and
- (L) any other information related to the incident of identity theft that the victim or the Office of the Attorney General elects to include in the database.

- (ii) The database shall record and maintain:

- (A) identification information for each person who requests or receives information from the database;

- (B) a record of the information that is requested or received by each person who requests or receives information from the database; and

- (C) a record of the date and time that any information is requested or provided from the database.

- (c) Information in the database is considered to be the property of the Office of the Attorney General, and retains any classification given it under Title 63G, Chapter 2, Government Records Access and Management Act.

- (4) The Department of Technology Services, with the approval of the Office of the Attorney General, may make rules to:

- (a) permit the following persons to have access to the database:

- (i) federal, state, and local law enforcement authorities, provided that the authority is acting within a specified duty of the authority's employment in enforcing laws;

- (ii) participating merchants and financial institutions, provided that the merchant or institution has entered into an access agreement with the Office of the Attorney General; and

- (iii) other persons, to be established by rule, provided that the person's access to the information is necessary and reasonable to accomplish the purposes of the program as provided in Subsection (1);

- (b) define and enforce limitations on access to information via the Internet website or in the database; and

- (c) establish standards and procedures to ensure accurate identification of individuals that are requesting or receiving information from the Internet website or the database.

- (5) (a) In addition to the penalties provided under Title 63G, Chapter 2, Government Records Access and Management Act, a person may not knowingly and intentionally release or disclose information from the database in violation of the limitations provided under Subsection (4)(a).

- (b) A violation of Subsection (5)(a) is a third degree felony.

- (6) (a) A person may not obtain or attempt to obtain information from the database by misrepresentation or fraud.

- (b) A violation of Subsection (6)(a) is a third degree felony.

- (7) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified under Subsection (4)(a).

- (b) Each separate violation of Subsection (7)(a) is a third degree felony.

Amended by Chapter 161, 2008 General Session

67-5-22.7. Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.

(1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.

(2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive, multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.

(3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.

(4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:

(a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes;

(b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state; and

(c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).

(5) (a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."

(b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.

(c) Subject to appropriations from the Legislature, beginning on the program start date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-6-1102 or 76-10-1801.

(d) To obtain payment from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim.

(e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:

(i) that the person is the victim of identity theft described in Subsection (5)(d);
and

(ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.

(f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity Theft Victims Restricted Account:

(i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);

(ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and

(iii) to the extent that there is money in the Identity Theft Victims Restricted Account.

(g) If there is insufficient money in the Identity Theft Victims Restricted Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim in the order that the claims are filed.

(6) The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

Amended by Chapter 18, 2011 General Session

67-5-23. Use of state vehicles for law enforcement officers.

(1) The attorney general may authorize law enforcement officers, as defined under Section 53-13-103, who are employees in the Office of the Attorney General to use a state issued vehicle for official and commuter use.

(2) An employee shall use, and the attorney general shall authorize the use of, a vehicle under Subsection (1) subject to the rules adopted by the Division of Fleet Operations in accordance with Section 63A-9-401.

Amended by Chapter 26, 2014 General Session

67-5-24. Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions.

(1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.

(2) The fund shall consist of gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund.

(3) (a) If the donor designates a specific purpose or use for the gift, grant, devise, donation, or bequest, money from the fund shall be used solely for that purpose.

(b) Gifts, grants, devises, donations, and bequests not designated for a specific purpose under Subsection (3)(a) and that are not restricted to a specific use under federal law, shall be used in connection with the activities under Subsection (4).

(c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section.

(d) The money in the fund may not be used for administrative expenses of the

Office of the Attorney General normally provided for by legislative appropriation.

(4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:

- (a) the Amber Alert program;
- (b) prevention of crime against seniors;
- (c) prevention of domestic violence and dating violence;
- (d) antidrug use programs;
- (e) preventing gangs and gang violence;
- (f) Internet safety programs;
- (g) mentoring Utah partnerships;
- (h) suicide prevention programs;
- (i) underage drinking programs;
- (j) antipornography programs;
- (k) victims assistance programs;
- (l) identity theft investigations and prosecutions; or
- (m) identity theft reporting system database.

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Amended by Chapter 400, 2013 General Session

67-5-26. Safety Net Initiative -- Task force -- Staff.

(1) As used in this section, "individuals in underserved communities" means men, women, and children living in culturally isolated communities of Utah and northern Arizona who may lack access to justice, safety, and services.

(2) There is created within the Office of the Attorney General the Safety Net Initiative to:

(a) address and prevent the crimes of domestic violence, sexual assault, stalking, incest, and child abuse relating to individuals in underserved communities; and

(b) implement strategies to increase awareness and to reduce risk factors in order to improve the safety and well-being of individuals in underserved communities.

(3) There is created within the Office of the Attorney General the Safety Net Task Force, which is a statewide multi-disciplinary and multi-jurisdictional task force focused on accomplishing the following objectives:

(a) coordinating with government agencies, nonprofit organizations, and interested individuals in order to work to provide open communication with individuals in underserved communities; and

(b) coordinating efforts to give individuals in underserved communities equal access to justice, safety, and services.

(4) The attorney general may employ or contract with individuals, entities, and support staff necessary to administer the duties required by this section.

Enacted by Chapter 116, 2008 General Session

67-5-27. Real estate fraud prosecutor.

(1) The state attorney general shall employ an attorney licensed to practice law in Utah who:

(a) has knowledge of the law related to mortgage fraud; and
(b) preferably also has background or expertise in investigating and prosecuting mortgage fraud.

(2) The primary responsibility of the attorney employed under Subsection (1) is the prosecution of real estate fraud.

(3) The state attorney general may employ clerks, interns, or other personnel as necessary to assist the attorney employed under Subsection (1).

Enacted by Chapter 370, 2008 General Session

67-5-28. Memorandum of Understanding regarding enforcement of federal immigration laws -- Communications regarding immigration status -- Private cause of action.

(1) The attorney general shall negotiate the terms of a Memorandum of Understanding between the state and the United States Department of Justice or the United States Department of Homeland Security as provided in 8 U.S.C., Sec. 1357(g) for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel, to include investigations, apprehensions, detentions, and removals of persons who are illegally present in the United States.

(2) The attorney general, the governor, or an individual otherwise required by the appropriate federal agency referred to in Subsection (1) shall sign the Memorandum of Understanding on behalf of the state.

(3) (a) A unit of local government, whether acting through its governing body or by an initiative or referendum, may not enact an ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from communicating or cooperating with federal officials regarding the immigration status of a person within the state.

(b) Notwithstanding any other provision of law, a government entity or official within the state may not prohibit or in any way restrict a government entity or official from sending to, or receiving from, the United States Department of Homeland Security information regarding the citizenship or immigration status, lawful or unlawful, of an individual.

(c) Notwithstanding any other provision of law, a person or agency may not prohibit or in any way restrict a public employee from doing the following regarding the immigration status, lawful or unlawful, of an individual:

(i) sending information to or requesting or receiving information from the United States Department of Homeland Security;

(ii) maintaining the information referred to in Subsection (3)(c)(i); and

(iii) exchanging the information referred to in Subsection (3)(c)(i) with any other federal, state, or local government entity.

(d) This Subsection (3) allows for a private right of action by a natural or legal

person lawfully domiciled in this state to file for a writ of mandamus to compel a noncompliant local or state governmental agency to comply with the reporting laws of this Subsection (3).

Enacted by Chapter 26, 2008 General Session

67-5-29. Duty to file legal actions.

(1) The attorney general may file an action to enforce the Utah Enabling Act, Section 9.

(2) In accordance with Title 78B, Chapter 6, Particular Proceedings, the attorney general shall file an eminent domain action or quiet title action on property possessed by the federal government:

(a) (i) that facilitates the state's ability to manage the school and institutional trust lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the trust lands; and

(ii) (A) that provides access to school and institutional trust lands; or

(B) that increases the profitability of the school and institutional trust lands; or

(b) for a public use that increases the ability of the state to generate revenue.

(3) The attorney general shall file, by no later than July 1, 2011, an eminent domain action or quiet title action described in Subsection (2) on property possessed by the federal government for:

(a) a highway on Spring Creek Road located in the western half of section 3, township 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;

(b) a highway off of Old Canyon Road located in the northeast quarter of the southeast quarter of section 5, township 10 north, range 5 east to provide access to the southeast quarter of the southeast quarter of section 32, township 11 north, range 5 east; or

(c) the purposes described in Subsection (2).

Enacted by Chapter 262, 2010 General Session

**67-5-30. Mortgage and Financial Fraud Unit creation -- Duties --
Employment of staff.**

(1) The attorney general may assist in efforts to prevent, investigate, and prosecute mortgage fraud, as described in Section 76-6-1203, and other financial fraud, including working with other agencies of state and local government.

(2) There is created within the Office of the Attorney General the Mortgage and Financial Fraud Unit to investigate and prosecute cases of mortgage fraud and other financial fraud.

(3) The Mortgage and Financial Fraud Unit shall focus its efforts on detecting, investigating, deterring, and prosecuting mortgage fraud and other major financial fraud crimes.

(4) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (2).

Enacted by Chapter 350, 2012 General Session

67-5-31. Mortgage and Financial Fraud Investigation and Prosecution Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Mortgage and Financial Fraud Investigation and Prosecution Restricted Account."

(2) The restricted account includes:

(a) \$2,000,000 of deposits from the foreclosure fraud settlement agreement between the United States Justice Department, United States Department of Housing and Urban Development, and a bipartisan group of state attorneys general, including Utah's attorney general, Bank of America, Citi, JP Morgan Chase, GMAC, and Wells Fargo announced in February 2012; and

(b) any other amount appropriated by the Legislature.

(3) Money from the restricted account shall be used by the attorney general to:

(a) investigate and prosecute mortgage and financial fraud throughout the state; and

(b) fund mortgage and financial fraud investigation and prosecution staff.

Enacted by Chapter 350, 2012 General Session

67-5-32. Rulemaking authority regarding the procurement of outside counsel, expert witnesses, and other litigation support services.

(1) (a) The attorney general shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish public disclosure, transparency, accountability, reasonable fees and limits on fees, and reporting in relation to the procurement of outside counsel, expert witnesses, and other litigation support services.

(b) On or before May 30, 2014, the attorney general shall submit to the Business and Labor Interim Committee, for its review, comment, and recommendations, the attorney general's proposed rules under Subsection (1)(a) relating to fee limits for outside counsel, including any provisions relating to exceptions to or a waiver of the fee limits.

(c) Before September 1, 2014, the Business and Labor Interim Committee shall include the attorney general's proposed rules described in Subsection (1)(b) on a committee agenda for the purpose of allowing the committee to review, comment, and make recommendations on the proposed rules.

(2) The rules described in Subsection (1) shall:

(a) ensure that a procurement for outside counsel is supported by a determination by the attorney general that the procurement is in the best interests of the state, in light of available resources of the attorney general's office;

(b) provide for the fair and equitable treatment of all potential providers of outside counsel, expert witnesses, and other litigation support services;

(c) ensure a competitive process, to the greatest extent possible, for the procurement of outside counsel, expert witnesses, and other litigation support services;

(d) ensure that fees for outside counsel, whether based on an hourly rate, contingency fee, or other arrangement, are reasonable and consistent with industry standards;

(e) ensure that contingency fee arrangements do not encourage high risk litigation that is not in the best interests of the citizens of the state;

(f) provide for oversight and control, by the attorney general's office, in relation to outside counsel, regardless of the type of fee arrangement under which outside counsel is hired;

(g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to be served with process without the express written authorization of the attorney general's office;

(h) establish for transparency regarding the procurement of outside counsel, expert witnesses, and other litigation support services, subject to:

(i) Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) other applicable provisions of law and the Utah Rules of Professional Conduct;

(i) establish standard contractual terms for the procurement of outside counsel, expert witnesses, and other litigation support services; and

(j) provide for the retention of records relating to the procurement of outside counsel, expert witnesses, and other litigation support services.

Amended by Chapter 209, 2014 General Session